

Approved: July 18, 2013

Posted: July 19, 2013



Town Council Meeting Minutes

Thursday, June 27, 2013, at 7:00 PM, in the Matthew Thornton Room

Chairman Rothhaus called the meeting of the Town Council to order at 7:00 p.m. Present at the meeting were Vice Chairman Yakuboff, Councilor Boyd, Councilor Dwyer, Councilor Harrington, Councilor Koenig, Councilor Mahon, Town Manager Eileen Cabanel, and Finance Director Paul Micali.

Pledge of Allegiance

Chairman Rothhaus led in the Pledge of Allegiance.

Announcements

Town offices will be closed on Thursday, July 4th in observance of Independence Day. The regular meeting schedule has been amended for the months of July and August. The Council will resume its regular meeting schedule in September. Regular meetings will be conducted on Thursday, July 18th and August 15th at 7:00 p.m. in the Matthew Thornton Room.

The Police Department would like to remind the people of Merrimack of the nationwide "If You See Something, Say Something" public awareness campaign. It is a simple and effective program to raise public awareness of indicators of terrorism and terrorism-related crime and to emphasize the importance of reporting suspicious activity to the proper local law enforcement authorities. The reporting of such activity could help fight crime at the local level.

For the month of June the Police Department has collected over 58 lbs. of unused and unwanted prescription medications in their prescription drug drop-off box located in the lobby of the Police Station. The drop box is open 24/7 and is completely anonymous.

Registrations for the Parks and Recreation Department Summer Programs and Naticook Day Camp are ongoing. For more information, please call the department at 882-1046.

Comments from the Press and Public

Tim Tenhave, 72 Amherst Road/Chairman, Merrimack Conservation Commission

Expressed his appreciation to Mr. Eber Currier for his many years of service on the Conservation Commission. He noted Mr. Currier was with the Commission for nearly 24 years and in many ways was the conscience of the Commission. He spoke of the agenda item for the annual review of the Agriculture Commission, and stated Mr. Currier was the force behind the the creation of that commission.

Paul Goodridge,

Speaking with regard to the Merrimack Youth Association (MYA) contract renewal, Mr. Goodridge commented sometimes in order to better appreciate our heritage we need to look at where we came from. It was in the very same room in 1967 that 7 men came together and formed an organization that

Approved: July 18, 2013

Posted: July 19, 2013

became the MYA. Now he is sitting before 7 people that want to judge that organization. Those seven men were coaches of the boy's baseball program along with Barry Osgood. They stored their one bag of equipment at Barry's house. The home team coach had to pick up the bag before each game and then return it. They played at two locations; one in a gravel pit where Tire Town is now located and the other where the high school cafeteria is presently located. That winter they were able to launch a boys' basketball program after addressing the School Board's requirement for insurance coverage. It was only a short time before programs for girls' basketball and girls' softball were introduced. A number of new faces joined the program as coaches for those sports, and soon there were many others involved.

A set of written rules were adopted that incorporated basic concepts under which this new organization would operate. It was several years later before a set of formal Bylaws were adopted. Dan Cantera served as Treasurer and was instrumental in formalizing the Bylaws. In 1970 Budweiser arrived in town and their contribution required recognition as a 501(c)(3) (non-profit organization). Mr. Cantera filed the required documentation and proceeded to gain support of Budweiser as well as other local corporations. Mr. Cantera later became a MYA President.

The written rules established four basic concepts upon which this organization was founded:

1. All children registering for a sport would play. There were to be no cuts. The program would be expanded as required to ensure participation by all. This requirement is still honored and now covers over 3,500 participants. On April 7, 1968 the first ball field was built at Twin Bridges. The same day an arsonist burned the covered bridge at Turkey Hill. To build a field at this location they had to gain the permission of the Conservation Commission, which controlled use of the property. Today the MYA maintains over 40 locations at 13 sites including school property, donated land, private sponsors and 8 fields provided by the Town of Merrimack. These facilities include properties that were developed primarily by the MYA. Over \$24,000 is expended on maintenance annually. Mr. Goodridge commented he cannot imagine the cost to the Town if it had to acquire and develop 40 different sites today.

Town voters had approved a bond to construct an addition at the Masticola Middle School. During the School Board's final review of the plans he pointed out to his fellow board members there were already three walls in place and by adding one wall and a roof a badly needed gymnasium could be provided. The architects were asked if modifications could be made in other areas in order to accommodate this change without any cost increase. When the school opened in 1973 there were questions raised about where the gym came from. He remarked he remains proud of that decision as he knows for over 40 years the school district and the Town of Merrimack has had the use of that facility.

2. The program would be conducted entirely on a volunteer basis. There would be no paid positions, although they considered paying a Treasurer. In the beginning years, if you coached you also umpired or refereed a game that same day. With the number of games required, it has become necessary to have paid officials. A Warrant Article was brought before the Town soliciting support stressing the MYA was a volunteer organization that would generate at least 50% of its own required funding with the other 50% coming from the Town. The MYA has remained a totally volunteer organization with hundreds of individuals contributing over 50,000 man hours to maintain a premier youth program in Merrimack.

Approved: July 18, 2013

Posted: July 19, 2013

Average cost for a participant in an MYA program is \$125. The national average for recreational sports is \$671. Today the Town's support is less than 20%. He commented he is sure the Council would appreciate the fact its concerns would carry greater weight if the Town were meeting its 50% obligation. The Town's share would be \$217,000 not \$75,000. He stated his belief the current MYA organization is providing a very cost effective program for the community with limited support from the Town.

3. All programs would be developed under the MYA umbrella. Collection and distribution of funds would be handled by a single organization. Merchants were to be solicited solely on the basis of donation to the MYA and not to a specific program. Separate solicitations are now allowed, which is a change he is not in agreement with. Each program would have a Director who would be responsible for operation and preparation of the budget. The MYA President, Secretary, and Treasurer, along with the program Directors would make up the Executive Board, which would have final approval of the overall MYA budget. All purchase requests would be made by a Director with all invoices paid by the Treasurer. This organizational structure remains in place today. The only exception is there is now in place a Treasurer for each of the programs.
4. A small fee would be required from each participant to cover the cost of insurance. When he and Dick Bellville sought permission from the School Board to use the only gym in town, there were a number of requirements, the first being insurance. They could only use the facility on Saturday one year and Sunday the following year. The doors to the hallway were chained eliminating access to bathrooms, etc. They had to mop the floors after use of the facility. Frank O'Gara was a member of the School Board, and was able to acquire an insurance policy that provided the necessary coverage. To cover this cost, a registration fee was established. Today the registration fee is \$61.70 with baseball at \$49 and basketball at \$30. These higher fees became necessary as the Town reduced their support. As a comparison, the Marietta, GA registration cost per player in either recreation baseball or basketball is \$200. In Maryville, TN the cost for Little League baseball is \$95 per player. Travel programs in a number of other towns exceed a \$1,000 per player.

Speaking to the issue at hand, Mr. Goodridge stated he personally has reviewed the information currently maintained by the MYA, and was impressed by the level of detailed documentation. They have a detailed inventory of all assets, maintain details of all facilities with allocations for their use in both the spring and fall, and have budgets for seven different programs. He added there is no question the MYA needs to review and be responsible for the possible misappropriation of funds.

He spoke of the Council's request that the current President resign and remarks the MYA organization has been arrogant when hesitating to accept a contract/agreement, which has an open-ended cost. He stated, having been a manager for over 40 years working with companies such as the New York Times, McDonnell Douglas, Philip Morris, and many others, he would never sign a contract containing an open-ended cost.

He stated the MYA needs to establish a set of standard procedures to be followed by each of their program treasurers, there should be no room for future questions regarding the integrity of this great organization, and the Council has the right to expect that integrity within that organization. He stated his belief an audit is not necessary at this time. He suggested the organization be charged with documenting their procedures and required to then come before the Council to provide proof proper controls are in place. He commented he finds it deeply disturbing when members of the Council

Approved: July 18, 2013

Posted: July 19, 2013

threaten to change the locks at the MYA building if no contract is signed. He referred to a quote made by President Lincoln in 1859 when he stated "You must remember that some things legally right are not morally right." He remarked the Council is legally right regarding the Town's ownership of the property, but morally is suggesting an injustice to the memory of the man that built that facility without knowing the man.

Dana Patterson built this building in the early '70s as a Merrimack Youth Center, where the youth of this community could go after school and have their activities and dances. When the MYA and the Town held a benefit basketball game with the now New England Patriots, Mr. Patterson supported those efforts by entertaining both teams as well as number of his friends at his home at his expense. He provided the coaches an opportunity to become familiar with a professional football team. The Youth Center did not survive due to lack of necessary adult supervision to chaperone ongoing activities. It became a natural transition to make this facility available to the MYA for the youth of the community. He thanked the Council for the opportunity to express his opinion, and stated he is extremely proud to have been a part of the organization in its formative years and to now have an opportunity to observe the great traditions and continued results of one of the best recreational programs in this country.

Chairman Rothhaus clarified the Council has never stated the MYA would be locked out of the building or that anyone should resign. Mr. Goodridge noted he was simply referring to published statements.

David McCray, 18 Trowbridge Road

Stated his appreciation of the work done by Sherry Kalish. He spoke of her energy and commented she is an individual who has taken a program and made it exponentially greater. He thanked Eber Currier for his years of service to the Town. He remarked when his involvement with the Town first began about 15 years ago, Mr. Currier was one of those who made him feel welcome and encouraged his involvement.

Robert Shagoury, 71 Island Drive

Questioned how the Council allowed use of Fishermen's Landing to bring boats in, which is what caused the Milfoil to be present in the pond. He questioned whether someone would be suing the State to ensure they take care of the problem. He remarked if not taken care of completely, it will continuously grow. He remarked it has been stated continued treatment (every three years) would lessen the Milfoil and eventually cause it to be at a number small enough to be able to eradicate. As a taxpayer he takes issue with being asked to contribute to something he did not cause, and pointed out the State owns the water body. He questioned why someone is not going after the State to fix the problem once and for all rather than the Town being responsible for the cost every three years even if only a percentage of the total cost.

Town Manager Cabanel noted, within the past week, the Town received a questionnaire from a legal firm in Concord who is representing the Ossipee Lake Association. They are asking people who are contributing, how they are contributing, how the State is contributing, etc. Such a request makes her question whether the law firm will eventually represent all of the communities containing water bodies to require the State to pay the associated costs. Mr. Shagoury was pleased to know the matter was at

Approved: July 18, 2013

Posted: July 19, 2013

least being reviewed. There are three more years remaining; however that is a large cost for those who are on a fixed income.

With regard to the issue relating to the MYA contract, he stated his belief the organization had agreed in principal to whatever the Council asked them to do, e.g., an audit, changing auditor every five years, to put a process in place to control revenue, etc., and questioned what the conflict is at this point. Chairman Rothhaus responded whether or not there is a conflict would be known when the agenda item was on the floor for discussion.

With regard to the issue of the Milfoil, Chairman Rothhaus commented he is unsure what might be materializing there. If the State does not have the necessary funding they find ways to downshift. He added the desire is to do something about it locally if possible. Councilor Dwyer commented the best that can be hoped for with treatment is control of the Milfoil. It will always be present. Mr. Shagoury stated his understanding Milfoil cannot be completely eradicated. He stated his issue to be that the Town allowed boats to be launched from the boat ramp, and it is known boats bring Milfoil to the pond.

Chairman Rothhaus informed the Council and viewing audience he would be removing from the agenda Item #1 under New Business. The Council's intent had been for a letter to be sent to abutters of Horseshoe Pond as a means of determining whether any wished to contribute to a fund that would help offset costs of treating the Milfoil. The letter spoke of the desire to receive public input; therefore, public comment would be accepted.

Terence Benhardt, 16 Newton Street

Thanked Ms. Kalish for her years of service, and wished her luck in her future endeavors.

Margaret O'Neill, 60 Island Drive

Stated, understanding the Council was interested in public input regarding the Milfoil, she conducted some analyses. At present there are 44 properties on Island Drive and 49 on Pondview Drive. Throughout those 93 properties are 30 boats, canoes, and kayaks. Eight of those are motorized watercraft, and to the best of her knowledge, only 2 motorized watercrafts are ever taken off of the pond and travel to other lakes. On an average week 35-40 motorized boats are seen on the lake. She suggested the problem with the Milfoil is not being created by residents but by others that use the boat landing and lake.

She remarked that needs to be obvious to the Council as the abutters cannot afford to pay for continued Milfoil treatment when most of the problem is coming from outside sources. She suggested the need for some kind of tax/user fee. The State and Town receive fees for trailers the boats ride on, fishing licenses, etc. She suggested a portion of that revenue should go towards funding Milfoil remediation.

An analysis of two recent home sales on Island Drive indicated a property at 38 Island Drive sold in June for \$174,900. The assessed value is \$214,000. Taxes are \$4,974 a year, and should be about \$4,059, which would represent an overage of \$815. Eighty four Island Drive sold in February for \$208,000. Assessed value is \$242,000. The \$5,600 tax assessment should only be \$4,828, which represents an overage of \$772.00. She stated her belief the other 91 properties would be the same way,

Approved: July 18, 2013

Posted: July 19, 2013

and suggested if that were the case, it would represent an excess of \$73,795.50 which has been collected by the Town that could very easily pay for Milfoil treatment for several years.

She has spoken with local property assessors who do not see Horseshoe Pond as a valuable place to live. The pond is noted for flooding and the problem with Milfoil. She suggested the Council reconsider who they are asking to contribute.

Dave Craigie, 78 Island Drive

Commented his response to the letter was similar to most; wondered why, when paying so much in taxes, some of those tax dollars are not used to address the Milfoil problem. After review of assessing records he determined the amount of taxes paid collectively by the residents of Island Drive and the adjacent condos is \$469,375, and his belief that figure supports the rationale for the Town contributing some of those tax dollars to Milfoil remediation as needed.

He spoke of the need to address the issue and preserve the value of the water and therefore the surrounding area. He noted a 5% decrease in property values would reduce the amount of tax revenue gained by the Town (\$23,468/year). He remarked if talking about treating every 3 years and if not an outrageous amount of money, it would appear to be a good investment.

Scott Congdon, 53 Island Drive

Pointed out it is not only boat trailers that cause the issue, it is also landscapers. He spoke of the frequency with which he sees a landscaper trailer backed into the water filling up their equipment to go off and do hydro seeding. Those trailers are not inspected, not required to be washed down, etc. He suggested an additional fee could be placed on those registrations. Specifically with regard to Horseshoe Pond, the YMCA is the majority landowner, but because their land is not developed, their taxes are very low. He stated his belief there is something in the works for developing Reverend Wright's property, which would result in additional tax revenues that could be put in the Milfoil coffers.

Councilor Dwyer stated, over the past several years, the Town has spent a total of \$20,900 for Milfoil treatment on Horseshoe Pond alone. The State has paid over \$17,000. He stated what the Council wished to do was put a letter out to the residents of Horseshoe Pond asking if they wished to get together as an association and put together a fund. If they choose not to then they choose not to.

Bob L'Heureux, Naticook Road

Commented several years ago his show, Outdoors with Bob, did a segment on combatting Milfoil in Horseshoe Pond. At that time, he believed he had come up with a proposal that would be accepted by the Town. Unfortunately, the Selectmen at that time chose not to accept it. As a result of that, the current problem is before the Council. The proposed warrant article had been for the establishment of a dedicated fund that all boat registration fees received by the Town would be placed into. That fund would be used to address issues such as Milfoil mediation. That would result in the cost of such projects being paid by the users. He noted, if registering a boat with the town a portion of the registration fee remains with the town. If registered at the state level the revenue is gained by the State. He stated his belief the total revenue gained is in the area of \$4,000 - \$5,000/year. He noted he

Approved: July 18, 2013

Posted: July 19, 2013

personally registers his boats with the State because he is aware his fees, although not coming directly to Merrimack, will be used to address water related issues within the State rather than being placed in the general fund of the Town. He stated if the Council were to put forward a similar proposal, he would do everything in his power to support the measure.

He suggested the Council could also petition the State to ban outboard motors on the pond, noting those residing in the area would object. If the Milfoil is being brought into the pond through motorized boats, then banning their use should keep the level from rising. He reiterated his opinion requesting a donation of the residents of the area is not the right approach. He questioned whether the Council would look to request contributions from abutters of other town properties, which may require a funding mechanism to address a particular issue.

Robert Shagoury, 71 Island Drive Questioned whether the Council is aware of an oil slick on Horseshoe Pond. Chairman Rothhaus stated he had not been aware, and thanked Mr. Shagoury for bringing the issue to the attention of the Council.

There being no objection, the Council went out of the regular order of business to take up Item #4 under New Business.

4. Merrimack Rocks Event Sponsorship

Submitted by David McCray

Request that the Town Council approve David McCray to seek sponsors for the Merrimack Rocks Event scheduled to take place on the evening of September 28, 2013 based on guidelines attached.

David McCray noted, at an earlier meeting, the Council approved the conceptual design of the event and the idea that sponsorships would be sought as a funding mechanism. A plan has been devised outlining the different sponsorship levels. A copy was provided in advance of the meeting. The plan calls for different advertising opportunities at different sponsorship levels, e.g., name associated with event, name printed on banners, opportunity to address guests at event, etc.

He noted acceptance of monies gained through the sponsorship drive could not be accepted until the conclusion of a Public Hearing to do so.

MOTION made by Councilor Boyd and seconded by Councilor Harrington to approve the request for David McCray to seek sponsorship for the Merrimack Rocks Event scheduled to take place on the evening of September 28, 2013 based on the guidelines provided

ON THE QUESTION

Councilor Boyd spoke of the completeness of the presentations made by Mr. McCray, and commented he believes recognizing the memory of Corporal Timothy Gibson is a good way to start the event off.

MOTION CARRIED 7/0/0

Recognitions, Resignations and Retirements

1. Recognition of Eber Currier – Merrimack Conservation Commission

Submitted by Town Council Chairman Finlay Rothhaus and Vice Chair David G. Yakuboff, Sr.

Approved: July 18, 2013

Posted: July 19, 2013

The Town Council will present a plaque to Eber Currier for his years of service to the Town of Merrimack as a member of the Merrimack Conservation Commission.

The Town Council recognized and thanked Mr. Currier for his dedication and service to the Town of Merrimack. Chairman Rothhaus presented Mr. Currier with a plaque commemorating his years of service on the Conservation Commission.

Mr. Currier stated it to have been an honor to serve on the Commission. He commented the Commission adds a great deal of value to the Town. Over the years the Commission has acquired a great deal of land for recreational purposes and wildlife habitat. Horseshoe Pond is an area where, during the winter, wood duck boxes are put out. The property has a great deal of value in terms of wildlife habitat. He stated he is unsure whether funds would be available through the Commission to assist with the Milfoil mediation, but suggested it be considered. He spoke of the value that open space adds to the Town.

2. Recognition of the Retirement of Sherry Kalish

Submitted by Human Resources Coordinator Sharon Marunicz

The Town Council will present a recognition plaque to Sherry Kalish in recognition of her retirement from the Town of Merrimack Parks and Recreation Department effective June 30, 2013. She has been employed by the Town of Merrimack since March 3, 1997.

The Town Council recognized Ms. Kalish upon the occasion of her retirement from the Parks and Recreation Department. Ms. Kalish was presented with a plaque commemorating her years of loyal and dedicated service to the Town, which she has contributed for more than 16 years.

Ms. Kalish expressed her gratitude for the support she has received over the years.

Appointments

1. Annual Review with the Agricultural Commission

Submitted by Agricultural Commission Chairman Robert McCabe and Vice Chair John Lastowka

Per Town of Merrimack Charter Section 6-6, at least annually, there should be an annual review with the Agricultural Commission. This agenda item is to highlight the commission's significant actions, current projects, anticipated actions, and to raise any concerns the Council should know or could act on.

Mr. Robert McCabe, Chairman, Agriculture Commission, noted the Commission has experienced some loss of membership due to retirements over the past year. He informed the Council both he and Vice Chairman, John Lastowka, sat on the Master Plan Committee for the past 2-2½ years. He spoke of agricultural land saved through the efforts of the Commission, and that the land has been incorporated into the Town's GIS mapping. The Community Garden at Wasserman Park is in its 4th year of operation, and plots are sold out. Easter Seals requested the use of two plots and had sent in a check. As Easter Seals is a non-profit organization and the use of the garden was viewed as a good gift, the check was returned. Also growing in the garden is a giant pumpkin.

Mr. Lastowka spoke of continued difficulty gaining volunteers to manage the Farmer's Market. As a result, he looked to the Town Manager for assistance. An arrangement was made for Public Works

Approved: July 18, 2013

Posted: July 19, 2013

personnel to place the cones and sign. Vendors are now picking up the cones and managing that aspect of the market. This arrangement has resolved those issues. It was noted the hours of the market have changed; 3:00 – 6:00 p.m. Another aspect that has been streamlined is the collection of vendor fees. Previously a \$5/week fee was collected and receipt provided by an individual located onsite each week. The fee structure now in place is a half-year fee of \$40 or a full-year fee of \$75.

The Commission is in its 9th year of providing educational agricultural workshops, which are conducted by the UNH Cooperative Extension. Training is free to the public and refreshments are provided at no cost. Mr. McCabe commented various educational speakers are sought to present at monthly meetings, and additional meetings are available in the agricultural industry. He noted both he and Mr. Lastowka possess restricted chemical licenses, and are able to answer questions concerning diseases or ailments in plant products, etc.

Mr. Lastowka spoke of the Spotted Wing Drosophila, an insect that came to the States from China. The insect is a fruit fly, which is extremely devastating to raspberries, blueberries, grapes, and other small fruit. Unlike our fruit fly which lays eggs on rotten fruit, this insect lays its eggs under the skin of fruit that is about ripe. Depending on weather, those eggs are larvae in the fruit within 5-7 days. There is no available pesticide to effectively destroy the insect. He informed the Council his farm has been chosen as a trial farm to track the activity of the insect.

With regard to advertising, most occurs at the transfer station. Three 4 x 8 wooden signs are used; during the winter a sign is posted seeking volunteers, at the first of spring the sign is changed out to the Community Garden sign informing of availability, which is followed by the Farmer's Market sign. Advertising has also occurred through newsprint, etc. A letter is being written and will be sent to approximately 46 small farmers in Merrimack seeking assistance to save the agricultural premise the Town was founded on. It was noted the Commission is reaching out to returning and potential vendors through social media sites such as Facebook, has established a Gmail account to receive electronic communications, and has devised a more economical and labor free way of handling mass mailings.

For the second year, the Commission has donated a \$200 scholarship to the 4H Club, which will allow members to travel to fairs throughout the State and received training. The Commission is comprised of members who possess a great deal of knowledge as well as established connections with organizations such as the UNH Cooperative Extension, and there is a desire to be more active in the community with regard to education.

Councilor Boyd questioned the progress seen this year as a result of the pruning conducted last year, and whether any additional work is recommended. Mr. Lastowka responded the trees were pruned heavily last year and the year prior. In order to avoid damage that could be caused by weather, tree height has to be controlled. The apple trees were shocked with heavy pruning, which was encouraged as a means of re-stimulating the trees. Those trees as well as the two Black Walnuts are doing well. It was noted all work was done in concert with the Conservation Commission. Also noted was the fact Mr. McCabe has been an Arborist for nearly 40 years. Additional trees are being looked at for future projects.

Councilor Boyd stated his appreciation of the cross-jurisdictional relationships that have been developed with the Parks & Recreation Department, the Conservation Commission, etc. He commented that illustrates the outreach efforts that enable projects such as the Community Gardens, which enhance the Town and foster a sense of community. He spoke of Merrimack's history as an

Approved: July 18, 2013

Posted: July 19, 2013

agrarian community. Remnants can still be seen today, and the efforts of the Commission, from a historical preservation standpoint, with regard to education are appreciated.

When asked if the Commission has had involvement with the schools, Mr. Lastowka spoke of an instance several years ago where he was contacted by a middle school teacher who was in the process of constructing the raised garden. He was asked where products could be purchased, e.g., seeds, plants, etc. That is the only interaction the Commission has had with the schools. However, the Commission has responded to requests to speak in other cities and towns.

There being no objection, the Council went out of the regular order of business to take up Item #1 under New Business.

1. Committee Appointments

Submitted by Town Council Chairman Finlay Rothhaus and Vice Chair David G. Yakuboff, Sr.

The Town Council to consider appointing recommended individuals to the Town's Committees, pursuant to Charter Article 4-8.

MOTION made by Councilor Koenig and seconded by Councilor Yakuboff to appoint Eber Currier to the Agricultural Commission. MOTION CARRIED 7/0/0

MOTION made by Councilor Mahon and seconded by Councilor Yakuboff to appoint the following individuals to the Conservation Commission: Tim Tenhave and Gage Perry as full members and Lauren Kras as an alternate member

ON THE QUESTION

Councilor Boyd stated his pleasure Commissioners Tenhave and Perry are continuing on in their service on the Commission. He remarked they bring a level of professionalism and expertise to the Commission. He welcomed Ms. Kras. **MOTION CARRIED 7/0/0**

MOTION made by Councilor Mahon and seconded by Councilor Harrington to appoint the following individuals as full members of the Heritage Commission: Lynne Wenz and Debra Bult. MOTION CARRIED 7/0/0

MOTION made by Councilor Koenig and seconded by Councilor Yakuboff to appoint the following individuals as full members of the Technology Committee: Brian McCarthy and Curtis Conrad. MOTION CARRIED 7/0/0

MOTION made by Councilor Yakuboff and seconded by Councilor Boyd to appoint Jamie MacFarland as a full member of the Technology Committee. MOTION CARRIED 7/0/0

MOTION made by Councilor Mahon and seconded by Councilor Boyd to appoint the following individuals as full members of the Town Center Committee: Andy Powell and Debra Huffman. MOTION CARRIED 7/0/0

MOTION made by Councilor Koenig and seconded by Councilor Boyd to appoint Robert Best and Alastair Millns as full members of the Planning Board and Nelson Disco as an alternate member

Approved: July 18, 2013

Posted: July 19, 2013

ON THE QUESTION

Councilor Boyd commented the Planning Board continues to show a level of professionalism and expertise. These three individuals have continued to exceed the standard and provide the necessary planning experience that allows the community to grow. He stated his pleasure all three have sought re-appointment to the Planning Board. **MOTION CARRIED 7/0/0**

MOTION made by Councilor Mahon and seconded by Councilor Boyd to appoint the following individuals as full members of the Parks and Recreation Committee: Tom Thornton, Laura Jaynes, Jackie Flood, and Christine Lavoie

ON THE QUESTION

Councilor Boyd noted Christine Lavoie is new to the Committee, welcomed her, and stated his pleasure with her willingness to become involved in the community. **MOTION CARRIED 7/0/0**

MOTION made by Councilor Boyd and seconded by Councilor Harrington to appoint Patrick Dwyer as a full member of the Zoning Board of Adjustment

ON THE QUESTION

Councilor Boyd commented he walked away from the interview with Mr. Dwyer feeling very good about the level of work he will contribute to the Zoning Board of Adjustment. **MOTION CARRIED 7/0/0**

Vice Chairman Yakuboff extended his personal gratitude to all who stepped forward to volunteer to serve on the various committees within the Town.

Oath of Office administered by Chairman Rothhaus.

There being no objection, the Council recessed at 8:36 p.m.

The Council reconvened at 8:40 p.m.

Public Hearing

1. Reimbursement from FEMA – February Snow Storm (NEMO)

Submitted by Finance Director Paul T. Micali

The Town Council will hold a public hearing to consider the acceptance and authorization to expend a grant from the Federal Emergency Management Agency of up to \$57,700 (estimated) to defray the cost associated with the February snow storm (NEMO), in accordance with RSA 31:95-b and Charter Article 8-15.

Chairman Rothhaus opened the public hearing at 8:40 p.m.

Finance Director, Paul Micali, informed the Council, as a result of the unusual amount of snowfall during the storm that took place on February 8th, 9th and 10th, the Federal Government declared a State

Approved: July 18, 2013

Posted: July 19, 2013

of Emergency. The Town was informed it could recover all costs for a 48-hour period. After discussion with the Public Works Department, the time determined to be the start of the storm was 3:00 p.m. on February 8th. Plowing operations concluded in the early morning hours of February 10th. Total cost was \$76,918.92 inclusive of equipment cost, overtime, and repair costs. The Federal Government will reimburse the Town 75% of total cost. As of this time, the State has not provided any additional funding; typically will fund 12.5% of costs. In discussions with the State it appears that 12.5% will not be forthcoming. Should monies become available a request for acceptance would be brought forward. He identified the costs as snowplow removal for the Public Works Department (\$76,238) and miscellaneous general government costs, e.g., hours expended by staff meeting with FEMA, completing all necessary paperwork, etc. (approx. \$680). The total expected amount to be reimbursed is \$57,689.19.

No one from the public addressed the Council.

Chairman Rothhaus declared the public hearing closed at 8:43 p.m.

MOTION made by Councilor Yakuboff and seconded by Councilor Boyd for the acceptance and authorization to expend Federal Emergency Management Agency funds in the amount of \$57,700 (estimated) to defray the cost associated with the February snow storm (NEMO), in accordance with RSA 31:95-b and Charter Article 8-15, and authorize the Town Manager and/or her designee to sign any and all documents that may be necessary to enact the transaction. MOTION CARRIED 7/0/0

Legislative Updates from State Representatives - None

Town Manager's Report - None

Consent Agenda

1. Grater Woods Forest Stewardship Plan

Submitted by Conservation Commission Chair Tim Tenhave

The Town Council to consider the final approval of the Grater Woods Forest Stewardship Plan from the Merrimack Conservation Commission.

MOTION made by Councilor Mahon and seconded by Councilor Boyd to move the Consent Agenda. MOTION CARRIED 7/0/0

Old Business

1. Horseshoe Pond - Cost Sharing for Treatment of Milfoil

Submitted by Town Manager Eileen Cabanel

The Town Council to discuss potentially sharing in the cost of milfoil treatment in Horseshoe Pond with the abutters.

This agenda item was withdrawn.

Approved: July 18, 2013

Posted: July 19, 2013

2. Lake Naticook Milfoil Update

Submitted by Parks and Recreation Committee Member and Lake Naticook Conservation Association Board Member Laura Jaynes

To provide the Town Council with an update of the milfoil situation and projected plans at Lake Naticook. There are specific concerns about the opening of the boat launch at Veteran's Park.

Ms. Laura Jaynes, provided a copy of a PowerPoint presentation, which was given to the Parks & Recreation Commission the prior week. She explained the New Hampshire Department of Environmental Services (NHDES) performed a very methodical placement of herbicide in the lake, and a group of weed watchers have been put in place in an attempt to get the issue under control and down to size.

With summer coming and increased boat action on the lake, they are anxiously awaiting news from NHDES on the results of the herbicide treatment before opening up the boat launch. Information is expected to be received by July 15th. The hope is the ramp will remain closed until that time.

Mr. Roger Gettel, Vice President, Lake Naticook Conservation Association, highlighted the information contained within the PowerPoint. He spoke of treatment that occurred on June 4th, and his knowledge only 1 plant survived as it was outside of the treatment area located in the deep section of the lake between the tip of the island and the dam. The area has been marked for easy identification by NHDES. Other suspect plants along the shore of Veteran's Park have been marked as well. It is possible there is more just as there could be fragments that had broken off and were floating around at the time of treatment, which could have survived and re-rooted. That possibility will be watched for. The treatment, this year, is funded by the State. Their current schedule includes diver trips and perhaps a follow-up herbicide treatment in the fall if necessary.

He remarked he was at the lake in the late afternoon on the Sunday before the herbicide treatment and witnessed triathlon training swimmers swimming from the boat ramp wading through the Milfoil patches to start their swim, despite the boat ramp being closed, people were carrying in small motorized boats, and others were exercising their dogs creating a lot of activity through the Milfoil. He noted quite a few floating fragments in that area and blowing towards the dam.

The desire is for a management plan to be put in place for the lake. Mr. Gettell remarked even if successfully eradicated from Naticook Lake, users that utilize other lakes in and out of town could re-introduce Milfoil into the lake. He informed the Council a number of members have volunteered to monitor the lake on a periodic basis looking for new growth. He spoke of the cooperation between the NHDES, YMCA, and the treatment contractor, which allowed for the treatment to be done at the latest/warmest possible date, which will increase the chances for success.

A representative of the NHDES will be onsite conducting a survey either during the week of July 8th or July 15th. Mr. Gettel reiterated the desire of the Association for the boat launch to remain closed until the completion of that survey. Doing so would reduce the chance of reintroduction of new Milfoil into the lake and allow for a good evaluation of the treatment that has occurred.

Signage has been placed at the boat ramp, which was provided by NHDES. It is believed the appropriate longer-term action is to apply for state grant funding next year. The process is believed simple and to involve notification of the desire to receive grant funding and that the Town budget the

Approved: July 18, 2013

Posted: July 19, 2013

necessary matching funds. The level of treatment is not yet known, but will become more apparent in the next month or two. It is also believed consideration should be given to acquiring a New Hampshire Lakes Association grant for funding an individual to be present at the boat ramp to inspect and educate boaters as a means of preventing reintroduction of new fragments. As has been mentioned, there is considerable transient motor boat activity in the Town. It is a problem shared by all users of the resource.

It has been noticed there is considerable erosion down the boat ramp. At times of heavy rain water runs off the playing fields, down the park road, and finds its path down the boat ramp. As a result, channels have been etched down the boat ramp and a delta of sediment has been created at the bottom of the ramp. Ideally the Association would like to see some improvement to the boat ramp. New Hampshire Lakes recommends the installation of a dry well across the top of the ramp as a best management practice. That would be a fairly simple step towards preserving the water quality of the lake.

Mr. Gettel noted he volunteers for the LLNP and has performed water sampling for that State program for many years. Lake Naticook is in pretty good shape for a lake in the southern tier essentially in an urban suburban area. The water quality is pretty good as is the health of the lake. He spoke of the abutters' understanding of the importance of maintaining the riparian vegetative barriers of the protected shoreline between Veterans Park and Wasserman Park. He stated there to be a great value in investing in the lake to preserve it for use by the citizenry now and into the future.

Vice Chairman Yakuboff requested clarification on the percentage of cost the Town would be responsible for. Mr. Gettel responded this year the State paid for 100% of the cost. Beginning in 2014, if the program remains the same, the State would advance 50% of the cost and the Town would be expected to pay the other 50%. He reiterated the associated figure is unknown at this time as it has yet to be determined what will be needed in terms of eradication. Vice Chairman Yakuboff stated his recollection the percentage covered by the State for Horseshoe Pond was 60%. He questioned whether the percentage paid by the State varies based upon size of lake, etc. Director Micali responded it is dependent upon available State funding. A 60/40 match was obtained in 2005. At present the State is offering 100% funding for the first year a 50/50 match after that, which could change depending upon how many funding applications are received.

Councilor Boyd cautioned use of the word eradicate and stated you cannot get rid of Milfoil. He suggested reference be made to mitigation, maintenance plan, etc. He remarked if accepting the premise that this is about maintenance and mitigation then you also have to accept the fact people will use the lake while that is occurring. He stated the belief everyone has a right to use that resource whether it be for swimming, boating, etc. The desire is there to provide that resource to the citizenry. Keeping the area closed is unfair. Ms. Jaynes clarified the desire is to keep the boat launch closed until the results of the treatment are known. She noted this was the first year of treatment, and acknowledged in future years, the lake would likely be in use while treatment and/or monitoring are being conducted.

Councilor Harrington commented the Association has taken a proactive and very responsible attitude toward assisting the Town in being able to control the Milfoil. A system has been set up whereby abutters are participating through in-kind services. She complimented the Association on their efforts.

Approved: July 18, 2013

Posted: July 19, 2013

Councilor Dwyer thanked the Association for the time and effort expended on the issue; however, advocated the Council not continue with the closure of the boat ramp. He remarked he has been one of the leaders on the Council who has been proactive with regard to funding for Milfoil mitigation, and in fact believes he was the Councilor who made the motion for closure of the boat ramp last year. He remarked, had he known it would be closed for an entire year he would have never made the motion. It was closed with the intent of allowing the State to go in and do its job. The timeline being brought forward now is NHDES will return in mid-July and from that point it could take another 4-6 weeks before the evaluation is provided. If, at that point, certain levels are not reached, it will be the end of September, and the recommendation may be that it remains closed for a fall treatment. He commented he cannot think of another body of water in New Hampshire where they closed the public boat launch for an entire year while doing this treatment.

He informed the Council he was the only member of the Parks & Recreation Committee who voted against the boat launch remaining closed. Chairman Rothhaus stated he is not sure what is actually done during the evaluation, e.g., use of divers, visual check, etc. He stated his belief it is a bit more prudent to wait to open the boat launch if that is what is seen to be necessary so that Milfoil or fragments are not dragged around. He stated he does not like continuing to expend funds when it is unknown if the State will continue to provide financial support. Councilor Dwyer remarked it is unknown whether or not opening the boat launch would exacerbate the problem. It was noted the lake is most susceptible because of its shallowness.

Mr. Gettel stated his personal belief as long as Horseshoe Pond has a problem with Milfoil, Naticook will be right behind it. He spoke of the ease with which fragments are transported and stated the need to create a long-term funding mechanism for treating the water bodies over time.

Councilor Dwyer suggested the placement of large, all weather signage educating the public on Milfoil and the need for proper cleaning of boats/trailers. It was noted there are two metal signs, which are of high-quality and instruct boaters to check their boats and trailers. Mr. Gettel noted the NHDES representative has been very communicative and responsive. If onsite the week of the 8th to the week of the 15th, he is of the belief a quick indication will be provided regarding whether there is believed to be growth by the ramp. He stated his belief what is present by the boat ramp is Bladderwort, which looks similar to Milfoil. He reiterated his belief an e-mail would be received shortly after the visit, and there would not be a lengthy waiting period to learn the results of the evaluation.

Councilor Harrington stated her concern that the closure would extend through most of the summer, and the potential exists for future closures. She remarked even if an encouraging report is received from NHDES, Milfoil could be reintroduced at any point in time. She questioned whether the compromise could be reached that the boat ramp remains closed until the completion of the evaluation. That would mean opening the boat ramp prior to the results of the evaluation being received.

Councilor Boyd suggested tabling the discussion until July 18th. Chairman Rothhaus questioned what would occur in the event the evaluation report is not positive. He suggested the Council could discuss what if any further action to take at the July 18th meeting. Mr. Gettel stated he could inform NHDES of the desire to receive information in advance of July 18th.

MOTION made by Councilor Boyd to table discussion of the opening of the boat ramp at Lake Naticook until July 18, 2013 and such time that the Council can receive additional information

Approved: July 18, 2013

Posted: July 19, 2013

ON THE QUESTION

Councilor Koenig noted the agenda item does not speak to closing or opening the boat ramp. The matter before the Council was that of an update on the Lake Naticook Milfoil status.

MOTION WITHDRAWN

It was noted the item would appear on the Council's July 18th meeting agenda.

New Business

2. Donation Acceptance for the Parks and Recreation Department

Submitted by Parks and Recreation Director

To consider the acceptance of \$185.00 from the Merrimack Sno-Buds, \$50.00 from the Merrimack Community Girl Scouts, \$200.00 from the Lions Club and \$550.00 from the American Camp Association for Naticook Day Camp Scholarships, pursuant to RSA 31:95-b and Charter Article 8-15.

Sherry Kalish, Director, Parks and Recreation Department, informed the council acceptance was requested for donations received to help children of families in need attend Naticook Day Camp. She noted a letter is sent out informing citizens of the camp and asking if they are interested in sponsoring a child. Some great responses have been received again this year. Families wishing to apply for financial assistance would do so through the Town Welfare Administrator, Patricia Murphy. The applications are received by Ms. Murphy and remain confidential.

MOTION made by Councilor Yakuboff and seconded by Councilor Boyd to accept \$185.00 from the Merrimack Sno-Buds, \$50.00 from the Merrimack Community Girl Scouts, \$200.00 from the Lions Club and \$550.00 from the American Camp Association for Naticook Day Camp Scholarships, pursuant to RSA 31:95-b and Charter Article 8-15 and thank all involved in those organizations who donated to the Parks and Recreation Department. MOTION CARRIED 7/0/0

3. Discussion and Consideration of MYA Contract Renewal

Submitted by Town Council Vice Chair David G. Yakuboff, Sr., Councilor Tom Mahon and Councilor Dan Dwyer

The Town Council to discuss and consider the renewal and approval of a three year contract with the Merrimack Youth Association.

MOTION made by Councilor Koenig and seconded by Councilor Mahon to move the MYA contract with the following change: Item #17 to read: "That the MYA shall adopt and apply the internal control procedures attached and provide by each October 31st, beginning with the fiscal year ended June 30, 2013 audited financial statements, prepared on a modified-accrual basis by a certified public accountant chosen by the MYA including, but not limited to: a balance sheet as of the preceding June 30; a statement of revenues, expenditures, and changes in equity for the year ended in the preceding June 30; a statement of estimated revenues and expenditures for the current fiscal year (July 1 through June 30); a schedule of revenues and expenditures by Program for the same period, and a detailed report on the status of all internal control

Approved: July 18, 2013

Posted: July 19, 2013

procedures and any recommended modifications thereto, to be conducted initially for the period of July 1, 2013 through December 31, 2013 and annually at the time of audit thereafter. Notwithstanding, the Merrimack Town Council shall have the right to require that a forensic audit be conducted at the MYA's sole expense if there are reasonable grounds to suspect irregularities in financial management, controls, balances or oversight as determined by the independent auditor. At least once every five years the MYA shall change auditors. Beginning with the June 30, 2013 audit, the MYA shall choose an independent audit firm that has not been associated with the MYA in the past. All audits are to be paid for by the MYA at their sole expense."

ON THE QUESTION

Councilor Koenig stated his belief it is important to clearly state where the Town is coming from and what is expected of the MYA. It is equally as important to acknowledge while, how much the Town appreciates the MYA, the work they are doing, and the efforts they are making to bring forth and address any improprieties or issues within the organization, which impact the Town. He stated his belief it is important they be allowed to choose their own accountant. The Town has a level of oversight in that the MYA is required to provide the audits. Those audits have been asked for for the past 5-6 years. He remarked adding this language to the three-year contract makes sense.

He commented when it comes to forensic audits he is of the belief to look into the past is likely inappropriately expensive. Going forward, if and only if the auditors suggest there are issues, would it make sense to proceed in this manner. It takes the responsibility away from the Town to decide what should occur at the MYA. It is up to the auditors to decide what should happen with the books they are dealing with. Councilor Dwyer stated his preference the auditor be chosen by the Town. If the Town were to choose the process could begin immediately. He noted the lack of language relative to enforcement, and suggested the audit could be delayed.

Chairman Rothhaus remarked for him the protections are that the MYA does not get the budgeted funds in a lump sum, they get 25% quarterly. He stated his belief they wish to conduct the audit, and reiterated the funding is a source of protection. Councilor Dwyer questioned whether that course of action is identified in a procedure or if staff could clarify retention of funds would be a course of action. Chairman Rothhaus stated if the contract is not fulfilled that is what would occur. Town Manager Cabanel stated that to be the case.

Vice Chairman Yakuboff was acceptable to the recommended change providing it be further amended in the first paragraph by adding the words "with internal controls in place, an auditor selected, and audit started no later than August 31, 2013." after the words "public accountant chosen by the MYA". Councilor Boyd was in agreement with the suggested amendment; however, preferred its placement within the agreement to be the next to last sentence in paragraph #17 and read "Said auditor shall be selected within" and identified a time period. Councilor Koenig stated his opinion requiring the audit be completed by October 30th is the teeth needed to say this is what we are working with.

Councilor Boyd questioned whether the language referred to internal control procedures, which is a separate document from the actual agreement. He questioned whether there is a difference between internal control procedures, which the Council has asked to be instituted by October 31st and the commencement of an audit, which to him reflects the entire financial situation of the organization as

Approved: July 18, 2013

Posted: July 19, 2013

opposed to internal control procedures; a series of protocols the organization will follow regarding day-to-day maintenance of the organization. Director Micali stated his hope the MYA would put the internal control procedures in place immediately after the meeting as there will be a separate internal control audit from July 1st through December 31st. If they do not have the internal controls in place immediately they will get a scathing audit review of their internal controls if put in place by October 31st. The October 31st deadline is for the audit report. The audit report is basically the accountant's review of the books with a management letter. If they do not have an auditor in place by September 15th there is no way they will meet the October 31st audit deadline date. Councilor Mahon stated that assumes the auditor has a decent set of accounts to work with to conduct the audit in 4-6 weeks.

Vice Chairman Yakuboff suggested if that is the case and the direction the MYA wishes to take, nobody should have a problem with putting in a deadline for the selection of the auditor and for the audit to commence by a date certain.

MOTION made by Councilor Boyd and seconded by Councilor Harrington to further amend Item #17 by inserting the words "Said auditor shall be engaged on or before August 31, 2013." before the words "All audits are to be paid for by the MYA at their sole expense."

ON THE QUESTION

Vice Chairman Yakuboff requested clarification as to the internal controls. He noted although a separate document it is part of the original agreement, and questioned whether those controls should be put in place similar to the audit; by August 31st. He remarked if the MYA waits 6 months to put the controls in place the next auditor won't have anything to look at. Town Manager Cabanel stated her agreement the language states the MYA shall adopt and apply the internal control procedures attached and it had been her intention to say immediately; the procedures should be in place immediately.

MOTION CARRIED 4/3/0

Councilors Koenig, Rothhaus, and Mahon voted in opposition

MOTION made by Councilor Koenig and seconded by Councilor Boyd to further amend in the first sentence of Item #17 by adding the word "immediately" following the words "That the MYA shall adopt and apply the internal control procedures attached". MOTION CARRIED 7/0/0

MOTION made by Councilor Boyd and seconded by Councilor Dwyer to further amend Item #17 by adding the words "Said report shall be published on the MYA and Town of Merrimack's website." after the first sentence which ends with the words "at the time of audit thereafter."

ON THE QUESTION

Councilor Boyd stated a desire to create a level of transparency for the citizenry. He believes all involved want the MYA to succeed, and one of the best ways to be successful is to be fully transparent about how taxpayer dollars as well as dollars gained through user fees are managed.

Chairman Rothhaus stated his reason for opposing the amendment to be the requirements placed within the contract, e.g., an independent audit firm performs an audit, controls and procedures put in place, which will be audited in 6 months' time, etc. He commented should the MYA be required to take such

Approved: July 18, 2013

Posted: July 19, 2013

action that requirement should be placed on all organizations receiving funding from the Town. Should the auditor lead the Council to believe there are issues to be addressed, the Council can simply stop providing funding. He stated his belief that will not be the case. Councilor Dwyer remarked if the Town is receiving the audit it would be a public document, which could be requested by any member of the public.

Councilor Koenig stated his opinion adding such language would further complicate a very complicated agreement unnecessarily. He suggested it would behoove the organization to do exactly what is being suggested, but he does not believe it necessary for the Council to require it. He commented the MYA is doing the best they can to try and understand what is going on and the Council is doing the best it can to put a contract together that can keep the operation running. He stated his belief it ought to be kept as simple as possible and commented it is already out of control.

Town Manager Cabanel stated, for the record, there are different kinds of audits. The audit report could come in and say we have audited the books and they are unauditable. The results of an audit does not necessarily mean they have gotten high marks or anything, it is the internal control audit or management letter that is going to tell how the procedures are working and the reasonableness of the expectation the numbers are correct.

Vice Chairman Yakuboff remarked this has never been about stopping the kids from playing sports. The idea is to get a snapshot in time and start with controls in place so that a procedure is in place in the MYA that will make the organization stronger financially. He stated those associated with the organization are held in high regard by the Council. The MYA group has a great many volunteers without whom it would not exist. It was the financial controls that the Council had to have in place because of its accountability for the tax dollars. He thanked the MYA for how the issue has been addressed.

Councilor Boyd thanked his colleagues for their candor and feedback.

MOTION WITHDRAWN

Vote on the main motion to move the MYA contract as amended.

MOTION CARRIED 7/0/0

MOTION made by Councilor Koenig and seconded by Councilor Boyd to authorize the Town Manager to sign the contract. MOTION CARRIED 7/0/0

Minutes - None

Comments from the Press - None

Comments from the Public

Robert Shagoury, 71 Island Drive

Commented there has been a high incidence of boats on Fishermen's Landing since the Naticook boat ramp was closed. He questioned whether there is a means of inspecting the boats before they enter the

Approved: July 18, 2013

Posted: July 19, 2013

water. Councilor Mahon remarked only if done as a volunteer effort. Chairman Rothhaus noted Ms. Jaynes and Mr. Gettel spoke of efforts to obtain State grant funding that would pay for an individual to be present to educate boaters.

Comments from the Council

Vice Chairman Yakuboff noted two residents of Merrimack were selected in the New Hampshire Moose Lottery, and extended his congratulations.

Councilor Boyd expressed his hope the community will come out in force to celebrate Independence Day.

Councilor Boyd expressed his gratitude to the Merrimack Youth Association for the level of work and volunteerism they provide the community.

Chairman Rothhaus wished his colleagues and the citizenry of Merrimack a happy Independence Day.

MOTION made by Councilor Mahon and seconded by Councilor Yakuboff to adjourn the meeting. MOTION CARRIED 7/0/0

The June 27, 2013 meeting of the Town Council was adjourned at 10:00 p.m.

Submitted by Dawn MacMillan